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Connecticut HB5409

Bill & Issue Summary

HB5409 amends the requirement for Financial Planners in Connecticut to disclose whether they have a fiduciary duty to a customer for recommendations. This disclosure is only required upon customer request. Financial planners are already required to disclose that they have a fiduciary duty upon customer request, but the bills expand this to include insurance recommendations.

The required standard of care for financial planners when recommending insurance products can vary. For Financial Planners who hold a CFP designation, are licensed as a Registered Investment Advisor (RIA), or an attorney, a fiduciary duty currently applies to all recommendations including insurance. However, Financial Planners who are CPAs or offering investment advice to consumers such as broker-dealers are not typically held to a fiduciary duty, nor insurance producers. Some insurance annuity recommendations can be subject to a Best Interest Standard of Care either from state adopted standards or under the SEC's Regulation Best Interest (RegBI).

Under CT general statute, a "financial planner" means a person offering individualized financial planning or investment advice to a consumer for compensation where such activity **is not otherwise regulated by state or federal law**. This definition is problematic with the proposed language change under HB5409. As insurance products are regulated by state law and recommendations of insurance would not qualify under the definition of a financial planner. This contradiction could be interpreted as nullifying the proposed amendment, for those not already bound by a fiduciary duty.

NAIFA Position

NAIFA does not oppose disclosures of the standard of care upon consumer request. NAIFA members pledged to work diligently to satisfy the needs of my clients by acting in their best interest as part of our Code of Ethics and have typically voluntarily operated at higher standards of care than is required. However, NAIFA does not support the mandatory disclosure NOT prompted by consumer requests. NAIFA recommends opposing HB5409 as it is unnecessary and creates a potentially unworkable conflict.

Talking Points

- We applaud CT's desire to protect consumers as they work with financial planners.
- NAIFA has concerns about HB5409. Currently, under the existing CT Statute Financial Planners would already be required to disclose whether they have a fiduciary duty upon customer request. The additional language does not provide additional consumer protections.
- However, the additional language creates a potentially unworkable conflict between the definition of a financial planner and the obligation of disclosure for insurance recommendations.
- For Financial Planners who hold a Certified Financial Planning designation, are licensed as a Registered Investment Advisor (RIA), or an attorney, a fiduciary duty currently applies to all recommendations including insurance.